IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4624 of 2007()

CRIME NO.469/07 OF HILL PALACE POLICE STATION, TRIPUNITHURA

: PETITIONER:

JOHN, AGED 59,
ASWATHY HOUSE, EDAMPADAM ROAD, TRIPUNITHURA.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
HILL PALACE POLICE STATION, TRIPUNITHURA.

2. THE STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON 26/07/2007 PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4624 of 2007

Dated this the 26th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. The marriage took place in the late eighties. The petitioner and his wife are aged 49 and 41 years. They have two children aged 18 and 10 years. Some discord is developed in the matrimony. Different reasons are advanced by the rival contestants for such discord in matrimony. Be that as it may, the wife/defacto complainant filed a complaint before the Magistrate alleging matrimonial cruelty of the culpable variety. The complaint was forwarded by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that on account of the strained matrimonial relationship, totally false and exaggerated allegations are raised by the defacto complainant.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that anticipatory bail can be granted to the petitioner in the facts and circumstances to which I have already made brief reference. In coming to this conclusion the fact that there is no specific allegation

of any physical injuries following assault does weigh with me. The fact that the arrest and incarceration of the petitioner is likely to mar the matrimonial time beyond repair does also weigh with me.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 02.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 03.08.2007 and 04.08.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 02.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 02.08.07.

(R.BASANT, JUDGE)

rtr/-